

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

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)	
)	
BIOGEN INC. and UNIVERSITY OF)	
ZÜRICH,)	
Plaintiffs,)	
v.)	C.A. No. 1:20-cv-10543-DLC
)	
CREATIVE BIOLABS INC.)	
)	
Defendant.)	
)	

CONSENT DECREE

WHEREAS, on March 18, 2020, plaintiffs Biogen Inc. and University of Zürich (collectively referred to as the “Plaintiffs”) filed a complaint against defendant Creative Biolabs Inc. (“Defendant”) in this action (the “Litigation”) alleging infringement of U.S. Patent No. 8,906,367, false description and designation of origin under the Lanham Act, and unfair competition under Mass. G.L. ch. 93A;

WHEREAS, on March 20, 2020, Plaintiffs served process on Defendant;

WHEREAS, Plaintiffs and Defendant have entered into a settlement agreement to fully settle this action (the “Settlement Agreement”);

WHEREAS, Plaintiffs and Defendant have stipulated and agreed that a Consent Decree be issued by the Court reflecting the terms hereinafter set forth; and

WHEREAS, Plaintiffs and Defendant have agreed that this action shall be dismissed without prejudice upon the terms and conditions set forth herein;

NOW, THEREFORE, Plaintiffs and Defendant having informed the Court they have agreed to settle this litigation and dismiss this action without prejudice upon the following terms

and conditions, and the Court incorporates such terms and conditions into this Order and hereby ORDERS that this action shall be DISMISSED WITHOUT PREJUDICE based on the following terms and conditions:

1. Subject matter jurisdiction, personal jurisdiction, and venue are proper in this Court, and Defendant has waived any objection to personal jurisdiction and venue.
2. Defendant, including its officers, directors, agents, servants, employees, and all persons controlling, controlled by, or in active concert or participation with Defendant, and any successors or assigns, agrees not to make, have made, use, offer to sell, sell, import or export the following products (collectively referred to as the “Accused Products”):

- Afuco™ Anti-APP ADCC Therapeutic Antibody (Aducanumab), ADCC Enhanced (AFC-TAB-717)
- Anti-APP Therapeutic Antibody (Aducanumab) (TAB-717)
- Aducanumab-Alexa 350 (ADC-FL-127)
- Aducanumab-Alexa 405 (ADC-FL-128)
- Aducanumab-Alexa 488 (ADC-FL-129)
- Aducanumab-Alexa 532 (ADC-FL-130)
- Aducanumab-Alexa 546 (ADC-FL-131)
- Aducanumab-Alexa 555 (ADC-FL-132)
- Aducanumab-Alexa 568 (ADC-FL-133)
- Aducanumab-Alexa 594 (ADC-FL-134)
- Aducanumab-Alexa 647 (ADC-FL-135)
- Aducanumab-Alexa 680 (ADC-FL-136)
- Aducanumab-Alexa 750 (ADC-FL-137)

- Aducanumab-Bodipy FL (ADC-FL-138)
- Aducanumab-Coumarin (ADC-FL-139)
- Aducanumab-Cy3 (ADC-FL-140)
- Aducanumab-Cy5 (ADC-FL-141)
- Aducanumab-Fluoresein (ADC-FL-142)
- Aducanumab-OGreen (ADC-FL-143)
- Aducanumab-PBlue (ADC-FL-144)
- Anti-human MAPT (TAB-513CL)
- Anti-CLEC4C (TAB-1246CL)
- Natalizumab and Anti-natalizumab (TP-019CL)

3. Defendant, including its officers, directors, agents, servants, employees, and all persons controlling, controlled by, or in active concert or participation with Defendant, and any successors or assigns, agrees not to infringe, contribute to the infringement, or induce the infringement of U.S. Patent Nos:

- a. 6,602,503
- b. 8,906,367
- c. 8,980,270
- d. 8,980,271
- e. 9,777,058; and
- f. 9,902,775

4. Defendant, including its officers, directors, agents, servants, employees, and all persons controlling, controlled by, or in active concert or participation with Defendant, and any successors or assigns, shall cease, and as of this date has or have ceased, using directly or

indirectly the marks “aducanumab,” “Biogen,” “BIIB037,” “BIIB” and/or any of Biogen’s registered or unregistered marks or tradenames, including without limitation any such use on Defendant’s website and in any other marketing materials belonging to or controlled by Defendant, as well as in connection with any goods sold or offered for sale by Defendant. This Consent Decree shall apply to any website owned or operated by, or otherwise controlled by Defendant including without limitation www.creative-biolabs.com and www.creativebiolabs.net, and any metatags or advertisements for such websites, such as, without limitation, Google AdWords.

5. Within 30 days of the entry of this Consent Decree, Defendant, including its officers, directors, agents, servants, employees, and all persons controlling, controlled by, or in active concert or participation with Defendant, and any successors or assigns, shall:

- a. destroy any inventory of the Accused Products,
- b. destroy all materials (*e.g.*, cell lines), and any instructional material that are used to manufacture the Accused Products,
- c. destroy all printed or written goods or materials with the names “Biogen,” “BIIB037,” and/or “BIIB”
- d. discontinue and permanently refrain from referring to its products as “aducanumab” or “BIIB037,” and to discontinue and permanently refrain from referring to “Biogen,” “BIIB” and any other Biogen tradenames on any website owned or operated by, or otherwise controlled by Defendant including without limitation www.creative-biolabs.com and www.creativebiolabs.net, and in any metatags or advertisements for such websites, such as, without limitation, Google AdWords.

6. Each party shall bear its own costs and attorneys' fees.

7. The Court will retain jurisdiction over any dispute between the parties related to compliance with the terms of this Consent Decree as well as any dispute regarding the Settlement Agreement. Breach of this Consent Decree may result in a finding of contempt of Court.

8. This Consent Decree shall apply to the Defendant and its officers, directors, agents, servants, employees, and all persons controlling, controlled by, or in active concert or participation with, through or under the Defendant.

WHEREFORE, the parties intend to be legally bound and the Court approves and so orders.

Stipulated and Agreed to:

BIOGEN INC., and UNIVERSITY OF
ZÜRICH

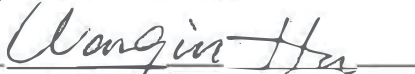
By their attorneys,



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CREATIVE BIOLABS INC.

By its Vice President,



Wanqiu Hu, Ph.D.
Creative Biolabs Inc.
45-1 Ramsey Road
Shirley, NY 11967

SO ORDERED:

Dated: 5/13/20

/s/ Donald L. Cabell

U.S. Magistrate Judge
United States District Court
District of Massachusetts

